UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,616	08/06/2001	Ryan Burkhardt	MS155709.1/4930	8312

321   7590   05/02/2005

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER
RUTTEN, JAMES D

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

<table>
<tr><td rowspan="2" colspan="2">Office Action Summary</td><td>Application No.</td><td colspan="2">Applicant(s) .</td></tr>
<tr><td>09/922,616</td><td colspan="2">BURKHARDT ET AL.</td></tr>
<tr><td colspan="2"></td><td>Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td colspan="2"></td><td>J. Derek Rutten</td><td>2192</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 November 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-31</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-31</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>29 November 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date <u>12/9/04, 3/25/05</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Acknowledgement is made of Applicant's amendment dated 29 November 2004,

responding to the 27 August 2004 Office action provided in the rejection of claims 1-31, wherein

claims 1, 3, 14, 19, and 31 have been amended, no claims have been canceled, and no new

claims have been added. Claims 1-31 remain pending in the application and have been fully

considered by the examiner.

2.   Applicant has primarily argued that the claims are not anticipated by *Harding* because it

does not disclose staging for later installation. This argument is not persuasive, as will be

addressed under the *Response to Arguments* section below.

3.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Response to Arguments

4.   On page 13 paragraph 2 of the response, the applicant essentially argues that the *Harding*

reference downloads and fully installs program modules, in contrast to "staging" a program

which copies such modules for later installation, and then "attaching" the program to complete

the installation. However, further review reveals that after downloading such modules, *Harding*

does not fully install them, but rather stores them for later installation, or attaching. See column 6

lines 9-54. This section describes a process of storing modules and software on a computer

system's disk drive for later installation (especially column 6 lines 16-18: *Prior to shipping, the*

computer manufacturer installs modules of DOS and Windows for every available language

desired as an option.). Then, during a subsequent boot up, the user makes a selection of

software to be installed, or attached (especially column 6 lines 47-51: *The language specific*

batch file acts as a "hook" which connects the software setup process of providing the end user a

selection of languages to the software installation process which installs the software using the

modular method described previously.). Thus, since *Harding* discloses both staging and

attaching, the arguments are not convincing.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1-3, 10, 11, 13-15, 18-23, 25, 28, and 31 are rejected under 35 U.S.C. 102(e) as

being anticipated by prior art of record U.S. Patent 5,794, 052 to Harding (hereinafter

"Harding").

        As per claim 1, Harding discloses:

        A computerized method of installing programs on a destination computer (column

113 lines 2-40), *said method comprising:*

        staging one or more programs on a storage medium of the destination computer

for later installation on the destination computer, said staging the programs comprising

storing installation files for the programs on the destination computer (column 10 lines

36-40: "Typically, software program modules are downloaded

from the mass data storage device 200 to the hard disk

drive 310 via a parallel port connection, or a network

connection between the mass data storage device 200 and the

computer system 300."; also see column 13 lines 1-5: "As shown in box

530, **when the end user first assembles and powers on the**

computer system, the computer system boots up using the

subset version of DOS that is installed at the factory.

This subset version runs the software setup program.");

        selecting at least one of the staged programs for installation on the destination

computer (column 13 lines 8-10: "The software setup program also

prompts the end user to select a language keyboard

configuration."); *and*

attaching the selected program to complete the installation thereof on the

destination computer (column 13 lines 29-31: "At this point, the software

setup program simulates the method of software installation

used by the computer manufacturer when preparing computer

systems for the U.S.").

As per claim 2, the above rejection of claim 1 is incorporated. Harding further

discloses: *detaching any of the programs not selected for installation on the destination*

computer (column 5 lines 11-16. Unused modules are detached when selected modules

are copied to the destination.).

As per claim 3, the above rejection of claim 1 is incorporated. Harding further

discloses: *further comprising defining a reference system, said reference system*

comprising a computer that has an operating system installed thereon and the one or

more programs previously staged thereon (column 4 lines 57-60), *and wherein staging*

the programs on the storage medium of the destination computer includes copying an

image of the reference system to the storage medium of the destination computer (column

5 lines 32-35).

As per claim 10, the above rejection of claim 1 is incorporated. Harding further discloses: *wherein attaching the selected programs includes performing one or more functions on the destination computer according to a customizable script* (column 5 lines 30-45).

As per claim 11, the above rejection of claim 10 is incorporated. Harding further discloses: *wherein the script is a text-based configuration file* (column 5 lines 35-38 describe use of a BAT file which is well known to be text-based.).

As per claim 13, the above rejection of claim 10 is incorporated. Harding further discloses: *wherein the script defines an order in which the selected programs are to be attached* (column 5 lines 38-43).

As per claim 14, the above rejection of claim 10 is incorporated. Harding further discloses: *wherein attaching the selected programs includes executing an installation command routine according to the script* (column 5 lines 35-37).

As per claim 15, the above rejection of claim 1 is incorporated. Harding further discloses: *wherein the programs include either application programs, utility programs, or both* (column 5 lines 3-16).

As per claim 18, the above rejection of claim 1 is incorporated. Harding further

discloses: *A computer readable medium having computer-executable instructions*

(column 5 lines 17-20).

As per claim 19, Harding discloses:

A system for configuring a computer (FIG. 2) *comprising:*

a reference computer including a storage medium, said storage medium of the

reference computer having an operating system installed thereon and one or more

programs staged thereon for later installation, said storage medium of the reference

computer defining a reference image (column 4 lines 57-59: "Each device driver

and application, or module, that is available for

downloading is installed onto a computer system one by

one.");

a destination computer including a storage medium and a processor, said

reference image being copied to the storage medium of the destination computer (column

6 lines 16-18: "Prior to shipping, the computer manufacturer

installs modules of DOS and Windows for every available

language desired as an option."); *and*

a computer-readable medium having computer-executable instructions identifying

at least one of the staged programs for installation on the destination computer, said

processor of the destination computer executing the instructions to attach the identified

program to complete the installation thereof on the destination computer (column 6 lines

47-54: "The language specific batch file acts as a "hook" which connects the software setup process of providing the end user a selection of languages to the software installation process which installs the software using the modular method described previously. Thus, once the software setup program runs the language specific batch program, the software setup program performs a series of steps similar to those performed by the software installation program.").

As per claim 20, the above rejection of claim 19 is incorporated. All further limitations have been addressed in the above rejection of claim 2.

As per claim 21, the above rejection of claim 19 is incorporated. All further limitations have been addressed in the above rejection of claim 10.

As per claim 22, the above rejection of claim 21 is incorporated. All further limitations have been addressed in the above rejection of claim 11.

As per claim 23, the above rejection of claim 21 is incorporated. All further limitations have been addressed in the above rejection of claim 13.

As per claim 25, the above rejection of claim 21 is incorporated. All further

limitations have been addressed in the above rejection of claim 14.

As per claim 28, the above rejection of claim 19 is incorporated. All further

limitations have been addressed in the above rejection of claim 15.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

8.   Claims 4-7, 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Harding as applied to claims 3, 10, and 21 above, and further in view of prior art of record

"Microsoft Windows 2000 Server Unleashed" by Brown et al. (hereinafter "Brown").

As per claim 4, the above rejection of claim 3 is incorporated. Further, Harding

does not expressly disclose: *performing one or more functions on the reference system*

computer according to a customizable script. However, in an analogous environment,

Brown teaches the installation of an operating system according to a customizable script

(Chapter 3, "Automated Installation"). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to use Brown's customizable script in

Harding's reference system. One of ordinary skill would have been motivated to save

time by automating a setup process.

As per claim 5, the above rejection of claim 4 is incorporated. Harding discloses a text-based configuration file (column 5 line 36. BAT files are known to be text-based.)

As per claim 6, the above rejection of claim 4 is incorporated. Further, Harding discloses a script file that contains identification of file locations (column 4 line 64 – column 5 line 1).

As per claim 7, the above rejection of claim 4 is incorporated. Further, Harding discloses: *wherein the script defines an order in which the programs are to be staged* (column 11 lines 1-4).

As per claim 12, the above rejection of claim 10 is incorporated. Harding further discloses: *wherein the script identifies which of the staged programs are to be attached* (column 10 lines 64-67). Harding does not expressly disclose a script that identifies which of the staged programs are to be detached.

However, Brown discloses a script with predetermined answers to installation questions (Chapter 3: "answer file"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Brown's predetermined answers in Harding's script. One of ordinary skill would have been motivated to provide an unambiguous list of software that is available and that should or should not be installed.

As per claim 24, the above rejection of claim 21 is incorporated. All further

limitations have been addressed in the above rejection of claim 12.

As per claim 31, Harding discloses:

A computer-readable medium having stored thereon a data structure (column 5

lines 17-25) *comprising:*

a first data field including data identifying a plurality of staged programs

(column 5 lines 38-42: "Once all of the module files, including its

associated script file, are exploded and downloaded onto

the hard disk drive, the FIX$FILE.BAT program runs the

batch files associated with each installed module in the

order that the modules are downloaded."),

said programs being staged on the computer-readable medium for later

installation on a destination computer associated with the computer-readable medium

(column 10 lines 36-40: "Typically, software program modules are

downloaded from the mass data storage device 200 to the

hard disk drive 310 via a parallel port connection, or a

network connection between the mass data storage device 200

and the computer system 300."); *and*

a second data field including a configuration script for directing the destination

computer in performing one or more functions (column 5 lines 45-50: "The

SCRIPT.EXE and associated module script files are
programmed such that the execution of each module's script
file by the SCRIPT.EXE program implements the changes
required by that particular module to the appropriate
configuration files and directories, in order to make that
module work properly."),

said one or more functions including identifying at least one of the staged

programs for installation on the destination computer based on the data identifying the

plurality of staged programs (column 5 lines 30-45: "The way in which the
script files automatically implement changes to the
configuration files is as follows. In a preferred
embodiment, a software installation program, called a Hard
Disk Master (HDM) program, is loaded onto the hard disk
drive along with all of the modules necessary to fulfill a
specifically requested configuration. The software
installation program runs a batch program called
FIX$FILE.BAT and an execution program called SCRIPT.EXE.
Once all of the module files, including its associated
script file, are exploded and downloaded onto the hard disk
drive, the FIX$FILE.BAT program runs the batch files
associated with each installed module in the order that the
modules are downloaded. The module batch files include an
instruction to run the SCRIPT.EXE program. The SCRIPT.EXE

program executes the script file associated with that

module.").

Harding does not expressly disclose: *a customizable script.* However, in an

analogous environment, Brown teaches the installation of an operating system according

to a customizable script (Chapter 3, "Automated Installation"). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to use

Brown's customizable script in Harding's reference system. One of ordinary skill would

have been motivated to save time by automating a setup process.

9.   Claims 8, 9, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Harding as applied to claim 1 above, and further in view of prior art of record "Windows 95

Installation and Configuration Handbook" by Tidrow et al. (hereinafter "Tidrow").

As per claim 8, the above rejection of claim 1 is incorporated. Harding further

discloses: *wherein staging the programs includes copying files associated with the*

programs to the storage medium of the destination computer without storing

configuration data associated with the programs (column 10 lines 47-54 and column 5

lines 45-50). Harding does not expressly disclose *wherein the destination computer has a*

registry for storing configuration data.

However, in an analogous environment, Tidrow teaches an operating system that

has a registry for storing configuration data (page 407 "Using the Registry"). It would

have been obvious to one of ordinary skill in the art at the time the invention was made to

use Tidrow's teaching of a registry to store the configuration files of Harding. One of

ordinary skill would have been motivated to consolidate the various configuration files

into a single database for easier and more efficient storage and retrieval of configurations

and settings.

As per claim 9, the above rejection of claim 8 is incorporated. Harding further

discloses: *wherein attaching the selected programs includes storing configuration data*

associated with the selected programs (column 5 lines 45-50). All further limitations

have been addressed in the above rejection of claim 8.

As per claims 26 and 27, the above rejection of claim 19 is incorporated. All

further limitations have been addressed in the above rejections of claims 8 and 9,

respectively.

10.   Claims 16, 17, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Harding as applied to claim 1 above, and further in view of Brown in view of the "Background

of the Invention" section appearing in columns 1-4 of Harding (hereinafter "Harding's

background").

As per claim 16, the above rejection of claim 1 is incorporated. Harding further

discloses:

executing a first installation utility on a reference computer (column 4 lines 59-64);

controlling the first installation utility to stage the one or more programs on a storage medium of the reference computer (column 5 lines 17-25);

Harding does not expressly disclose: *controlling the first installation utility according to a first configuration script; installing an operating system on the reference computer using the installation utility; defining a reference image of the storage medium of the reference computer having the operating system installed thereon and the one or more programs staged thereon; and copying the reference image to the destination computer.*

However, in an analogous environment, Brown teaches controlling an installation utility according to a configuration script (Chapter 3: "UNATTEND.TXT"), and installing an operating system using an installation utility (Chapter 3: "Automated Installation"). Also, Harding's background teaches that reference images containing an operating system of a reference system can be copied to a destination computer (column 1 line 61 – column 2 line 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Brown's installation utility and configuration script along with Harding's background teaching of reference images in Harding's system. One of ordinary skill would have been motivated to maintain a reference image that can be packaged and distributed to computers that may not have direct access to a reference computer. A reference image allows a custom distribution of software modules to be

selected and installed on a destination computer.

As per claim 17, the above rejection of claim 16 is incorporated. Harding further

discloses:

executing a second installation utility on the destination computer; and

controlling the second installation utility according to a second configuration script to

attach the selected program on the destination computer (column 5 lines 35-45).

As per claims 29 and 30, the above rejection of claim 19 is incorporated. All

further limitations have been addressed in the above rejections of claims 16 and 17,

respectively.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. "Microsoft Windows 2000 Server – Remote Operating System Installation" by

Microsoft Corporation, cited in the 3/25/05 Information Disclosure Statement discloses staging

an application and subsequently "attaching" it via installation. See pages 26 and 27: "Scenario 4:

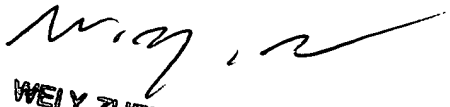Creating Standard Desktops with RIPrep and Software Installation and Maintenance".

12.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to J. Derek Rutten whose telephone number is (571) 272-3703. The

examiner can normally be reached on T-F 6:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jdr

WEI Y. ZHEN
PRIMARY EXAMINER